

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK

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JOSE A. RODRIGUEZ	)
REMA G. RODRIGUEZ	)
RUBEN RODRIGUEZ	)
WILLIAM RODRIGUEZ	)

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WOODY SCHURIG	)
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JOEL SEPULVEDA	)
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DONALD ST. HUBERT	)
LEONHARD R. STANLEY	)
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GLENN A. STEINLE	)
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DOUGLAS J. STEWART	)
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MELVIN A. STOKES	)
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JOSE TORRES	)
LAURA T. TORRES	)
NEIL TORRES	)
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RICHARD VAZQUEZ	)
DAVID VEGA	)
EDWIN B. VEGA	)
MARGARET VEGA	)
WILKINS VEGA	)
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TEODORO VELAZQUEZ	)
ROBERT J. VENDER	)
VALERIE VERATUDELA	)
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CHRISTINE VINCENT	)
VINCENT J. VISCEGLIA	)
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PHULBERT VOLCY	)
PAMELA A. WALCH	)
DWAYNE WALKER	)
MARK J. WALKER	)
MICHAEL J. WALSH	)
SHAWNA J. WALSH	)
WAYNE WALSTON	)
LEACROFT A. WALTERS	)
MAURICE A. WALTERS	)
CHUEN H. WANG	)
MARCUS C. WARING	)

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ALWAIN B. WHITE )  
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MORGAN S. WILDING )  
ANTHONY M. WILKEY )  
HEATHER WILLETS )  
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TREVON W. WILTSHIRE )  
ASHER M. WINIK )  
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DECOSTA WRIGHT )  
LEONARD V. WRIGHT JR. )  
LETASHA M. WRIGHT )  
JAE Y. YIM )  
YUSUKE C. YONEHARA )  
AARON YOUNG )  
ARTHUR DAVID Y. YOUNG )  
GREGORY J. ZEEK )

Plaintiffs,

v.

CITY OF NEW YORK and THE  
FIRE DEPARTMENT OF  
THE CITY OF NEW YORK

Defendants.

Civil Action No. \_\_\_\_\_

(JURY TRIAL DEMANDED)

COMPLAINT

## **INTRODUCTION**

Plaintiffs, by and through their counsel, the law firm of Quinn, & Mellea and Woodley & McGillivray, for their complaint against the City of New York ("New York City") and the Fire Department of the City of New York ("FDNY") (hereinafter collectively referred to as "defendants"), state as follows:

## **PARTIES**

1. Plaintiffs are and at all times material herein have been employed by defendants in the positions of Emergency Medical Technicians ("EMTs"), Paramedics, and related positions in the New York City Fire Department. Plaintiffs bring this action for a declaratory judgment, back pay and other relief pursuant to 29 U.S.C. § 207, 29 U.S.C. § 216(b), and 28 U.S.C. § 1331 to remedy the defendants' willful and unlawful violations of federal law complained of herein.

2. Plaintiffs are identified in the caption of the Complaint and have given their written consent to be party plaintiffs in this action pursuant to 29 U.S.C. § 216(b). Such written consents are appended to this Complaint in the Appendix. These written consent forms set forth each plaintiff's name and address.

3. Each of the plaintiffs in this action while employed by defendants in the position of EMTs/paramedics and related occupations has been an "employee" within the meaning of the Fair Labor Standards Act (FLSA), 29 U.S.C. Section 203(e)(1).

4. Defendant New York City is, among other things, a juridical entity amenable to suit under the FLSA in that it is, and was at all times material hereto, a public agency within the meaning of Section 3(x) of the FLSA, 29 U.S.C. § 203(x). Defendant New York City has a principal office and place of business located at Broadway and Park Row, New York, New York, and may be served with process by serving the Office of Corporation Counsel, 100 Church Street, New York, New York 10007.

5. Defendant Fire Department of the City of New York (FDNY) is an administrative division of New York City and is, among other things, a juridical entity amenable to suit under the FLSA in that it is, and was at all times material herein, a public agency within the meaning of Section 3(x) of the FLSA, 29 U.S.C. § 203(x). The FDNY's principal office is located at 9 MetroTech Center, Brooklyn, New York.

### **JURISDICTION AND VENUE**

6. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1331 and 29 U.S.C. § 216(b).

7. Venue is proper in this district pursuant to 28 U.S.C. § 1391.

### **FACTS**

8. At all times material herein, and since December 4, 2006, as well as before, the plaintiffs have worked within the FDNY for defendants in the position of EMT, paramedic, and related positions.

9. Within the last three years while working in the position of EMT, paramedic, and related positions for defendants, plaintiffs have worked in excess of forty hours per week.

10. During the times that plaintiffs have worked in excess of 40 hours in a week, defendants failed to provide plaintiffs with the rights and protections provided under the FLSA. Among other things, defendants have violated the FLSA, 29 U.S.C. §§ 207(a) through such actions as (1) suffering or permitting plaintiffs to work before and after their scheduled shifts and failing to compensate plaintiffs for such work activities; and (2) failing to include in the regular rate at which overtime is paid shift differentials and other types of payments made to plaintiffs in addition to plaintiffs' basic pay.

**CLAIMS FOR RELIEF FOR  
VIOLATIONS OF THE FAIR LABOR STANDARDS ACT**

11. Plaintiffs hereby incorporate by reference paragraphs 1 through 10 of this complaint and repeat the allegations set forth therein.

12. Section 207 of the FLSA requires the payment of overtime compensation to employees who work in excess of the hourly standards set forth therein. In particular, Section 207(a) requires the payment of overtime compensation at the rate of one and one-half times each employee's regular rate of pay for all work hours in excess of forty hours per week.

13. Defendants have failed to comply with the overtime pay requirements of the FLSA in the manners outlined herein and in particular in paragraph 10.



14. By failing and refusing to pay the plaintiffs the overtime pay required under law, the defendants have violated, and are continuing to violate in a willful and intentional manner, the provisions of the FLSA. Specifically, defendants' pay practices violate section 207 of the FLSA and this action is brought to remedy the violations of the FLSA for the maximum period allowed under the law. As a consequence, at all times material herein, the plaintiffs have been unlawfully deprived of overtime compensation and other relief for the maximum statutory period allowed under federal law.

15. As a result of the defendants' willful and purposeful violations of the FLSA, there have become due and owing to the plaintiffs an amount that has not yet been precisely determined. The employment and work records for the plaintiffs are in the exclusive possession, custody and control of defendants and the plaintiffs are unable to state at this time the exact amount owing to them. Defendants are under a duty under the FLSA, 29 U.S.C. § 211(c), and various other statutory and regulatory provisions to maintain and preserve payroll and other employment records with respect to the plaintiffs from which the amount of defendants' liability can be ascertained.

16. Pursuant to 29 U.S.C. § 216(b), plaintiffs are entitled to recover liquidated damages in an amount equal to their back pay damages for the defendants' failure to pay overtime compensation. In addition, plaintiffs are entitled to an award of interest on their backpay damages until such damages are paid.

17. Plaintiffs are entitled to recover attorneys' fees and costs under 29 U.S.C. § 216(b).

### **DEMAND FOR A JURY TRIAL**

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, plaintiffs hereby demand that their claims be tried before a jury.

WHEREFORE, the plaintiffs pray that this Court:

(a) Enter judgment declaring that the defendants have willfully and wrongfully violated their statutory obligations, and deprived each of the plaintiffs of his and her rights;

(b) Order a complete and accurate accounting of all the compensation to which the plaintiffs are entitled;

(c) Award plaintiffs monetary liquidated damages equal to their unpaid compensation;

(d) Award plaintiffs interest on their unpaid compensation;

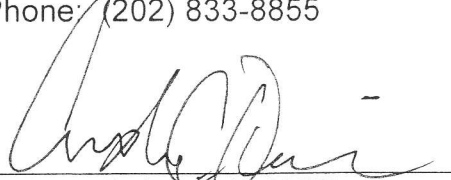
(e) Award plaintiffs their reasonable attorneys fees to be paid by the defendants, and the costs and disbursements of this action; and

(f) Grant such other relief as may be just and proper.

Respectfully submitted,



Sara L. Faulman (SF 9778)  
Gregory K. McGillivray (SSN: 0280)  
David Ricksecker (SSN: 8519)  
WOODLEY & MCGILLIVRAY  
1125 15<sup>th</sup> Street, N.W.  
Suite 400  
Washington, DC 20005  
Phone: (202) 833-8855



Andrew Quinn (AQ 4059)  
Quinn, Ferrante & Mellea  
399 Knollwood Road  
Suite 220  
White Plains, NY 10603  
Phone: (914) 997 0555  
Attorneys for Plaintiff